

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MYRIAM ZAYAS,

Plaintiff,

v.

MARIAH KRAUSE and JAMAAL MAGEE,

Defendants.

CASE NO. 2:20-CV-01001-MAT

ORDER

BEFORE THE COURT is *pro se* Plaintiff Myriam Zayas' "Statement of Facts" filed on October 3, 2022 (Dkt. 22). The Court liberally construes Plaintiff's filing as either a request for relief from the judgment under Federal Rule of Civil Procedure 60(b) or as a motion for reconsideration under Local Rules W.D. Wash. LCR 7(h). *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) ("A document filed *pro se* is 'to be liberally construed' . . .") (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

PROCEDURAL HISTORY

Plaintiff filed this case on June 25, 2020, alleging that Defendants Mariah Krause and Jamaal Magee (Defendants) violated her civil rights. Dkt. 1. On October 5, 2020, the parties filed a stipulated motion to dismiss with prejudice all of Plaintiff's complaints against Defendants

(Dkt. 19). The Court granted the motion and dismissed with prejudice Plaintiff's action against Defendants on October 6, 2020 (Dkt. 20) (Dismissal Order).

DISCUSSION

To the extent that Plaintiff's filing can be liberally construed as a request for relief from a final judgment or order under Rule 60(b) of the Federal Rules of Civil Procedure, Plaintiff has not shown that she meets the grounds for relief in this case. Under Rule 60(b), the Court may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). First, Plaintiff's filing references that her federal court cases¹ may have been improperly dismissed because she filed "too many amended complaints." Dkt. 22, at 2. The Dismissal Order at issue in this case, however, was based on the parties' stipulated motion and did not reference the filing of too many amended complaints. Accordingly, Plaintiff's reasoning does not apply to the Dismissal Order. Second, the parties stipulated to a dismissal with prejudice, and the stipulated motion contained specific language that Plaintiff "agrees and understanding that she cannot later file another lawsuit asserting the same claims or causes of action against defendants Mariah Krause and Jamaal Magee that plaintiff has asserted against these same defendants in this present lawsuit." Dkt. 19, at 1–2. Accordingly, Plaintiff was made sufficiently aware of the effect

¹ In Plaintiff's filing, Plaintiff identifies several actions filed in the Western District of Washington, including the above-captioned matter. Dkt. 22, at 2.

1 of dismissing the matter with prejudice. Finally, Plaintiff's request has not been made within a
2 reasonable time as nearly two years have passed since the entry of the Dismissal Order and the
3 date of Plaintiff's filing. *See* Fed. R. Civ. P. 60(c)(1) (providing that a motion under Rule 60(b)
4 must be made "no more than a year after the entry of the judgment or order of the date of the
5 proceeding"). Therefore, to the extent that Plaintiff's filing can be liberally construed as a request
6 for relief from a final judgment or order under Rule 60(b), the Court denies it.

7 To the extent that Plaintiff's filing could be liberally construed as a motion for
8 reconsideration under LCR 7(h), Plaintiff not shown that she meets the grounds for reconsideration
9 in this case. "Motions for reconsideration are disfavored," and the Court "will ordinarily deny such
10 motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts
11 or legal authority which could not have been brought to its attention earlier with reasonable
12 diligence." LCR 7(h)(1). Plaintiff has made neither showing here. Further, a motion for
13 reconsideration must "be filed within fourteen days after the order to which it relates is filed." LCR
14 7(h)(2). Plaintiff's filing was made well outside of this period. Therefore, to the extent that
15 Plaintiff's filing could be liberally construed as a motion for reconsideration under LCR 7(h), the
16 Court denies it.

17 CONCLUSION

18 For the reasons set forth above, to the extent the Plaintiff's filing can be liberally construed
19 as a motion for relief under Rule 60(b) or as a motion for reconsideration under LCR 7(h), the
20 Court DENIES Plaintiff's "Statement of Facts" (Dkt. 22).

21 DATED this 5th day of October, 2022.

22 
23 MARY ALICE THEILER
United States Magistrate Judge